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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,415	08/20/2003	Byron Wesley Harris		3433
7590	03/10/2004		EXAMINER	
Dr. David Landman #126 3320 S. Fort Apache Rd. Las Vegas, NV 89117			PAIK, STEVE S	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,415	HARRIS, BYRON WESLEY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven S. Paik	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 August 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

1. Receipt is acknowledged of claiming the benefit under 35 U.S.C. 119(e) of United States provisional application, 60/463,520 filed April 18, 2003.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 10, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ricks (U.S. Patent 4,759,139).

Re claims 1, 10 and 14, Ricks disclose an identification device (10) for an infant comprising, in combination: an infant article (12; baby bottle); a label (34) including personal information of the infant (name) coupled to a portion of the identification device; and means for coupling (flange 28) at least a portion of the identification device (10) to the infant article. The opening of the collar allows users to easily identify the owner of the article by reading a visible identifier such as a name of an infant.

Re claim 18, Ricks discloses a method for using an identification device (10) for infant comprising the steps of:

providing an infant article (12; baby bottle);  
coupling a label (34) including personal information (name) of the infant to a portion of the identification device (through the opening the collar 10); and

providing means for coupling at least a portion of the identification device to the infant article (see Figs. 1-4).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, 8, 9, 12, 13, 15-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricks (U.S. Patent 4,759,139) in view of Rubin (U.S. Patent 4,476,381).

Re claims 2-4, 8, 9, 12, 13, 15-17, and 19, as discussed above, Ricks discloses an identification device for an infant article such as a baby bottle that has a recess to receive a label. The identification device includes a portion to display personal information for easy identification.

However, the identification device is different from the claimed structure of an identification device.

Rubin discloses a patient treatment system and method comprising an automated administration of the treatment of a patient (an infant may obviously be a patient), including establishing a direct linkage, at all stages of treatment, between the patient, on the one hand, and tests performed on the patient, specimens taken from the patient (infant article that includes personal information), and medication and services administered to the patient, on the other hand. The patient treatment method and system includes a patient identification method which

provides the patient with a wrist bracelet (identification device 18) which not only identifies the patient, but also facilitates generation, at various stages of treatment, of labels for identification of specimen containers containing specimens taken from the patient. The patient treatment method and system also includes a medication (medication bottle may be another example of an article that belongs to a patient/infant) verification method and device, by means of which the identity of the patient receiving medication is validated as coinciding with the identity of the patient for whom the medication is intended. The identification device includes a member (clasp 20) coupling at least a portion of the identification device comprising a pair of ends of said member coupled to a patient. The bracelet is not only limited to couple a patient, but it may be attached to any articles that can safely hold the identification device (col. 5, ll. 42-64). Furthermore, it is obvious to have the identification device to include a transparent and flexible material for a barcode reader to successfully read the encoded information.

In view of Rubin teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ an identification device and the concept of the identification device in a patient treatment method and system to the baby bottle identification collar of Ricks due to the fact that identification of a patient/infant and his/her belongings, specimen for a medical test, and medical records data can be easily identified for the purposes of improving treatment process and reducing the chance of mixing different patient's belongings, specimen for a test, and medical records. Furthermore, such modification of employing a bracelet type of identification holding device to an article would have been an obvious matter of design variation, well within the ordinary skill in the art, and therefore an obvious expedient.

Re claim 5, Ricks in view of Rubin discloses the identification device as recited in rejected claim 2 stated above, wherein said means for coupling at least portion of the identification device comprising an adhesive; a portion of said member adhesively coupled to a portion of the infant article (col. 5, ll. 42-47).

6. Claim 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricks (U.S. Patent 4,789,139) as modified by Rubin (U.S. Patent 4,476,381) as applied to claim 2 above, and further in view of Neeley (U.S. Patent 5,153,416).

The teachings of Ricks in view of Rubin have been discussed above. Rubin discloses a wrist bracelet to couple the identification device to a patient, but does not show the bracelet includes a multiplicity of openings to selectively receive the end of a strap.

Neeley discloses a patient identification bracelet that includes a multiplicity of openings (6) for receiving the end of a strap. The openings are to adjust the size of patient's wrist or ankle.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have selected a wrist band that has a plurality of holes to fit the band to its wearer perfectly, as taught by Neeley, into the teachings of Ricks in view of Rubin for the purpose of maximizing patient's comfort while ensuring the secure fit of the wrist band. Furthermore, both Rubin and Neeley disclose a wrist bracelet with an adjustable size, which are functionally identical.

7. Claims 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricks (U.S. Patent 4,789,139) as modified by Rubin (U.S. Patent 4,476,381) as applied to claims 1 and 18 above, and further in view of Lowe et al. (U.S. Patent 5,732,495).

The teachings of Ricks in view of Rubin have been discussed above. Rubin discloses a wrist bracelet to couple the identification device to a patient, but does not show the label having information on both sides.

Lowe discloses a label (tag 10) having a machine readable information on one side and other types of information on the other side of the tag (6) for providing further information to the tag user.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have selected a tag comprising information displayed on both sides, as taught by Lowe, into the teachings of Ricks in view of Rubin for the purpose of providing all of the relevant information to the tag user by using both sides of the tag/label for easy and quick decipherment. Furthermore, such modification of employing a tag including information on both sides to the teachings of Ricks in view of Rubin would have been an obvious matter of design variation, well within the ordinary skill in the art, and therefore an obvious expedient.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eller (U.S. Patent 4,984,683) discloses a wearable identification holding device comprising a recess to store medical history of the wearer; Riley (U.S. Patent 6,510,634) discloses a paper label for receiving a printed image and an adhesive backed transparent film layer to protect the contents of printed image. A patient may wear the paper label.

Art Unit: 2876

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on Mon - Fri (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven S. Paik  
Examiner  
Art Unit 2876

ssp  
February 27, 2004